

**Assistant Secretary Tom Malinowski Remarks at the African Center for Justice
Conference in Kinshasa, Democratic Republic of the Congo**

June 4, 2015

Thank you to ABA ROLI and the ACJ for allowing me to join you here today. Many dignitaries and senior officials have traveled from their respective countries to participate in this event. With us today, are U.S. Ambassadors to the Democratic Republic of Congo, the Republic of Congo, and Rwanda, as well as, Ambassadors from France, the United Kingdom, and Canada.

Also, joining us is the Head of the EU Mission to the DRC, the Minister of Commerce of the DRC, and the Secretary General and Chief of Staff for the Ministry of Justice to the Republic of the Congo.

There is a reason that three U.S. ambassadors and I have traveled here today, and it's not just because I have long wanted to fulfill my dream of hearing Franco, Tabu Ley and Verkys play live -- my Congolese friends keep reminding me that I'm too late for that, and make fun of me for my old school taste.

We are here to celebrate the launch of an initiative that's all about America partnering with African citizens to build more just societies under the rule of law.

Now, when we talk about human rights and the rule of law, here or anywhere, we often focus on our right to say or write what we believe, to support the leaders and political parties we like, to assemble peacefully, and to do all these things without having to fear being arrested, or tortured or killed.

We don't talk enough about how little these legal guarantees mean when the legal institutions needed to enforce them are absent in the communities where most people live their lives, or when these institutions simply don't feel beholden to those in their society who lack wealth or power. Likewise, when we talk about economic development in Africa or in any part of the world, we often mean access to water, to food, to livelihoods, to schools, to roads, to financial resources, and so forth.

We don't talk enough about how hard it is to gain and defend access to all these things without access to justice -- without institutions that will protect people when the livelihoods and land and opportunities for which they have sacrificed and sweat are taken from them by those with more wealth or power.

We often talk -- and unfortunately must talk -- about the destructive presence of government in people's lives, when governments abuse human rights. We don't talk enough about the destructive absence of government from people's lives, when the basic institutions needed to ensure fair play and protect people from violence, corruption, and exploitation are simply not there.

In many countries, access to justice is hampered by too few courts and legal professionals, too long a distance between communities and institutions of justice, too little knowledge about the content of the law, and by corruption that breeds distrust of the justice system.

Mali, for instance, has 300 lawyers for a population of 15 million. The majority of them live in Bamako so despite laws providing for free legal aid, if you're a poor person up-country, you don't have much of a chance to get it.

In Guinea, there are 200 lawyers for 12 million people, and just 120 officers to ensure that court judgements are enforced, most of whom demand a fee.

As with all matters of supply and demand -- when there is great demand for a service that is scarce, its price goes up. If you make access to justice scarce, justice will be bought and sold.

So that's why we're supporting the African Center for Justice and mobile courts, and why, frankly, I think we ought to be doing even more to support access to justice programs around the world.

It's easy to be pessimistic about these kinds of program in countries that have a long history of weak or corrupt systems of justice, but the interconnected nature of the modern world means that even people in remote and impoverished places have a greater and greater sense of their rights. If they see a wrong, they will demand justice; if a local legal aid clinic offers help, they will take

it. Increasingly, crimes that would once have been ignored are being heard in local courts. Not all the time, not nearly as often or as much as they should be. But we are seeing a movement in Africa and beyond for judicial development that demands our support. Let me give you a few examples.

Ms. L, a widow and mother of three young girls, came to the ABA ROLI legal aid clinic here in the DRC. After her husband's death, her in-laws had thrown her and her daughters out of their home. As many of you know, local custom denies inheritance rights to women, but Mrs. L knew this was wrong. At the clinic, she announced, "I have been informed that this is the place where women whose rights are violated are defended." The clinic staff pointed her toward Congolese laws supporting equal treatment of male and female children. With their help, Ms. L and her daughters were able to return to their home.

In Uganda, a widow named Juliana was attacked with a machete because she refused to give up her land to a male relative. The man said that because Juliana was a woman, she had no right to her land — the land where she had lived for decades and where she had buried her children and husband. He returned again and again; he even started building a house on her land. How's this possible? Because he had no reason to respect the law or to fear the consequences of his violence -- until an NGO was able to help arrange legal assistance for Juliana, and her attacker was sentenced to six years in prison.

In Kenya, citizens have long suffered abuse of power by local police. Until recently, the Kenya Criminal Procedure Code permitted police to arrest and imprison someone — without evidence — unless they posted a monetary bond demonstrating their commitment to "keeping the peace," which often just translated into paying a bribe. An NGO helped citizens challenge the constitutional validity of these provisions and they were struck down in March of this year.

Back in Uganda, the people of a small town were angry that their local health clinic was routinely sent expired medication, if their Ministry of Health sent any at all. In a rural area, far from the district or national government, the population assumed there was nothing they could do to fight the corruption responsible for this. But leaders in the community got together and

decided this wasn't good enough; this wasn't just. So what did they do? They developed mechanisms to hold their healthcare system accountable.

They monitored health clinics for compliance with national health policy—including whether staff were charging illegal fees, whether essential medicines were available in the clinic (as opposed to being sold on the black market), and whether basic infrastructure like running water and refrigeration was functioning. They developed compacts with health staff for improving performance over time. And the results were significant: A randomized controlled trial found that utilization of health services increased by 15% and child mortality decreased by 30%.

Now keep in mind, every time one poor, otherwise powerless and voiceless person wins a case against a powerful abuser or exploiter, the word of that victory spreads. Other people who thought they were powerless gain confidence. Those who thought they could abuse or exploit without fear start to think again. It may seem expensive to put a legal clinic in a village and spend months helping one person to right a wrong. But if you can show it can be done even just once the system can start working better for everyone.

Here in DRC, many people know of the landmark case against a high-level Army officer for mass rape in 2011. What you may not know is that after the convictions were announced, 86 victims from different attacks came forward to testify against their abusers. Just three weeks later, eleven more officers were tried and convicted for mass rapes committed back in 2009, and the incidence of rape in the region dropped.

So that is our challenge -- ensuring that more and more people who have suffered a wrong can get help in righting it. And access to justice doesn't just mean access to courts; it means access to information and to government services from a government that is responsive to their needs.

What we're really talking about here is distributing power to the poorest and most vulnerable people in a society so that they can stand up for themselves and have a chance to thrive, not just to survive.

Here, I want to raise one more issue that may not be formally on our agenda at this conference, but which is connected to our purpose. You see, I think it's very hard to distribute power to ordinary people in a society if power in that society remains concentrated in the hands of a single group or party or individual for a very long time. I think it's hard to build a culture of respect for law for people at the bottom if people at the top try to keep their positions even when the law says they can't.

This has been a problem in many parts of the world. But I think it's interesting that at a time when more African citizens are demanding access to justice and better governance in their daily lives, they are also saying "enough" to leaders who cling to power despite term limits. According to the Afrobarometer poll, 84 percent of Africans support free and fair elections, 77 percent reject one-party rule, 72 percent believe democracy is preferable to any other system of governance, and 74 percent do not want their president to be able to serve more than two consecutive terms. These are not abstract data points. They are overwhelming and powerful numbers that reflect the real opinions of millions of people.

Term limits encourage leaders to focus on leaving a good legacy, instead of perpetuating their own power – for example, a leader who knows he'll have to leave office eventually is more likely to invest in the justice system, schools and health care than in building a personal guard or secret police. Term limits make it harder to build systems of patronage and corruption by ensuring political turnover, and they give new generations the opportunity to be leaders.

This dynamic can be cyclical, and we know that leaders clinging to power, often use the spoils of their corruption to buy loyalty and the complicity of others to coerce cooperation. Grassroots efforts to empower citizens to unearth and fight back against the corruption in their police, schools, and daily lives makes it harder for those in power to use broken systems to retain control.

In the United States, we had a president who served four terms in office. Many Americans believed then and believe now that Franklin Delano Roosevelt was one of our greatest presidents. He got us through the Great Depression; he invented our modern system of care for the poor and the elderly; and he won a great victory in World War II. Yet right after he died in

office, we changed our constitution to make sure that no president could ever again serve as long. We learned that it is dangerous to let presidents serve for life, even when it's a president whom the people love.

Now, it's easy for individual leaders to convince themselves that they are the exception to this principle. But wherever that's happened lately on this continent, we've seen that the result has been resistance and conflict – because again, even people who may appreciate what their leaders have done in the past are saying that constitutions and the law should be respected.

By trying to govern forever, all these leaders are achieving is to make their countries impossible to govern -- that's the irony; that's how these leaders defeat even their own purpose. We're seeing that now in Burundi. We don't want to see it elsewhere.

The United States will continue to support peaceful democratic transitions like the one the DRC plans to hold in 2016. We will oppose efforts by leaders anywhere in the world who try to change their constitutions, or ignore them, to stay in power in perpetuity. We will do so whether we have a close relationship with that leader, or not, whether we think he or she has done a good job, or not. The era of presidents for life should be over, here and everywhere.

And that brings us back to our main theme. We want to see systems of governance and justice that focus on citizens, that work for and empower the poorest people in society, not those who already have so much. This is the right thing to do; it's also the smart thing to do if you want to build stable, peaceful, prosperous and just societies.

I thank you for all you are doing to advance this goal; it is a privilege for me and for the United States to be at your side.

I would now like to this opportunity to introduce you to the esteemed Deputy Chief of Cabinet to the Minister of Justice, Andre Kalenga.

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